

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**DELORES MILES**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 4:19-CV-133-RP**

**COMMISSIONER OF SOCIAL SECURITY**

**DEFENDANT**

**FINAL JUDGMENT**

Plaintiff Delores Miles filed suit under 42 U.S.C. § 405(g) for judicial review of the unfavorable decision of the Commissioner of Social Security regarding an application for a Disability Insurance Benefits and Supplemental Security Income. Docket 1. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provision of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. Docket 10. The Court, having considered the record, the administrative transcript, the briefs of the parties, and the applicable law, finds that the Commissioner's decision is not supported by substantial evidence and should be reversed.

The ALJ erroneously found that the plaintiff performed her past work as a custodian at substantial gainful activity (SGA) levels and that therefore that job constitutes past relevant work (PRW) for purposes of a step four determination. In her job history report, the plaintiff reported she worked as a custodian for a "state agency" from 2002 to 2016, and at the administrative hearing she testified, with the assistance of an interpreter, that she worked at the "job opportunity" for 15 years. Her detailed FICA earnings report reflects earnings in each of the years 2002 through 2016 from the employer "Coahoma Opportunities, Inc." However, in none of those years did the plaintiff's average monthly earnings from that employer equal or exceed SGA levels. Although the plaintiff's average monthly earnings in 2006 – from her Coahoma

Opportunities, Inc. earnings and her self-employment earnings combined – exceeded SGA levels, and although an ALJ may consider combining earnings when a claimant has wages and self-employment earnings that do not represent SGA, *see* SSA POMS DI 10505.015(B)(3), the ALJ’s decision does not reflect any consideration of combining those earnings.

For these reasons, and for those announced on the record at the conclusion of the hearing in this case, the Commissioner’s decision is reversed and remanded for a rehearing of the plaintiff’s application under the fourth sentence of § 405(g).

**SO ORDERED**, this the 18th day of June, 2020.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE